

JAN 27 2006

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ROSALVA PEREZ GARDUNO; et al.,

Petitioners,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 05-75423

Agency Nos. A78-521-542

A78-112-383

A78-112-384

A78-112-385

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted January 23, 2006^{**}

Before: T.G. NELSON, SILVERMAN and BYBEE, Circuit Judges.

We have reviewed the record, respondent's motion and petitioners' response to the court's order to show cause. Respondent's motion to dismiss the petition for

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

05-72924

review as to petitioners Rosalva Perez Garduno, Diana Perez Garduno and Rosalba Perez Garduno for lack of jurisdiction is granted. *See* 8 U.S.C.

§ 1252(a)(2)(B)(i); *Romero-Torres v. Ashcroft*, 327 F.3d 887, 892 (9th Cir. 2003); *see also Falcon Carriche v. Ashcroft*, 350 F.3d 845 (9th Cir. 2003); *Jimenez-Angeles v. Ashcroft*, 291 F.3d 594, 602-03 (9th Cir. 2002) (upholding constitutionality of NACARA).

Respondent's motion to summarily deny the petition for review as to petitioner Victor Hugo Perez Garduno is also granted. *See United States v. Hooton*, 693 F.2d 857 (9th Cir. 1982) (per curiam) (stating standard). The petition for review is denied as to petitioner Victor Hugo Perez Garduno because he lacks a qualifying relative for purposes of cancellation of removal. *See* 8 U.S.C. § 1229b(b)(1) (noting the statutory requirements for cancellation of removal); *Romero-Torres v. Ashcroft*, 327 F.3d at 889 (same).

The temporary stay of removal and voluntary departure confirmed by Ninth Circuit General Order 6.4(c) and *Desta v. Ashcroft*, 365 F.3d 741 (9th Cir. 2004), shall continue in effect until issuance of the mandate.

Petitioners' request to remand this petition is denied.

All other pending motions are denied as moot.

PETITION DISMISSED IN PART AND DENIED IN PART.